



ELECTION NEWS

A special informational bulletin on the implementation of Michigan's new "consolidated elections" legislation

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Issue No. 25

August 26, 2005

In This Issue ...

- Second "Close of Registration" Notice and Second Election Notice Eliminated; Publication Deadlines Modified; Contents of Notices Clarified
- Recall Timeline Modified
- Michigan's Absentee Voting Process: Critical Points to Remember
- Election Resources Available on Department's Website

Second "Close of Registration" Notice and Second Election Notice Eliminated; Publication Deadlines Modified; Contents of Notices Clarified

An amendment to Michigan election law enacted last month (PA 71 of 2005) effected the following changes in the requirements county, city, township and village clerks must meet when preparing and publishing "close of registration" notices and election notices:

Second "close of registration" notice eliminated; publication deadline modified: Michigan election law, MCL 168.498, was amended to eliminate the need to publish the second "close of registration" notice. With the amendment, the publication of a single "close of registration" notice is now required. The amendment further provides that the "close of registration" notice must be published no later than the 7th calendar day prior to the registration deadline. (Formerly, the first "close of registration" notice had to be published no later than the 10th calendar day prior to the registration deadline; the second notice was then published prior to the elapse of the deadline.)

Contents of "close of registration" notices clarified: Michigan election law, MCL 168.498, was amended to clarify that "close of registration" notices must contain the following information:

- The days and hours the clerk will be at the clerk's office or other designated place for the purpose of receiving registrations for the election.
- A listing of the offices that will be elected or nominated at the election. (The names of the candidates seeking nomination or election to the offices do not have to be included in the notice.)

- A brief description of any ballot proposals which will appear on the ballot. (If presenting a bond proposal, the development of the proposal description in close consultation with the bond counsel is recommended.)
- Information on where voters can obtain the full text of any ballot proposals which will appear on the ballot.

With the amendment, there is no longer any need to publish the full text of ballot proposals in “close of registration” notices.

Second election notice eliminated; publication deadline modified: Michigan election law, MCL 168.653a, was amended to eliminate the need to publish the second election notice. With the amendment, the publication of a single election notice is now required. The amendment further provides that the election notice must be published no later than the 7th calendar day prior to the date of the election. (Formerly, the first election notice had to be published no later than the 10th calendar day prior to the date of the election; the second notice was then published before the conduct of the election.)

Contents of election notices clarified: Michigan election law, MCL 168.653a, was amended to clarify that election notices must contain the following information:

- The date of the election and the hours that the polls will be open (7:00 a.m. through 8:00 p.m.).
- A listing of the offices which will be elected or nominated at the election. (The names of the candidates seeking nomination or election to the offices do not have to be included in the notice.)
- A brief description of any ballot proposals which will appear on the ballot. (If presenting a bond proposal, the development of the proposal description in close consultation with the bond counsel is recommended.)
- Information on where voters can obtain the full text of any ballot proposals which will appear on the ballot.
- A listing of the polling place locations. A statement regarding the accessibility of the polling place locations and the availability of voting instructions in alternative formats (audio and Braille) must be included with the listing.

While not required by law, it is recommended that the notice include information on how and where an elector may obtain an absent voter ballot for the election.

With the amendment, there is no longer any need to publish the full text of ballot proposals in election notices.

Recall Timeline Modified

An amendment to Michigan election law enacted last month (PA 71 of 2005) provides that a recall election must be conducted on the “next regular election date that is not less than 95 days after the petition is filed.” Formerly, Michigan election law stipulated that a recall election must be conducted on the “next regular election date that is not less than 70 days after the petition is filed.” The change was made to provide an adequate amount of time for the necessary election preparations after the elapse of the 35-day recall petition processing period.

In view of the amendment, the following chart lists the last date a recall petition can be filed for the next five regular election dates:

<i>Election date</i>	<i>Last date recall petition can be filed in order for recall question to appear on ballot</i>
November 8, 2005	August 5, 2005
February 28, 2006	November 25, 2005
May 2, 2006	January 27, 2006
August 8, 2006	May 5, 2006
November 7, 2006	August 4, 2006

Michigan’s Absentee Voting Process: Critical Points to Remember

To protect and enhance the integrity of Michigan’s absentee voting process, all election officials are required to observe the legal requirements, practices and policies detailed below:

Eligibility: A registered voter is eligible to obtain an absent voter ballot for an upcoming election if he or she: 1) is 60 years of age or more 2) is unable to vote without assistance 3) expects to be absent from his or her city or township of residence for the entire time the polls are open 4) is in jail awaiting arraignment or trial 5) has been appointed to work as an election inspector in a precinct outside of his or her precinct of residence or 6) is unable to attend the polls due to his or her religious beliefs.

Eligibility restriction: A person who registers to vote by mail must vote *in person* in the first election in which he or she participates. The restriction does not apply to overseas voters, voters who are handicapped or voters who are 60 years of age or older.

Application process: A voter who wishes to receive an absentee ballot must request it *in writing* from the clerk; absentee ballots may not be delivered as a result of an oral request made in person or over the phone. However, an absent voter ballot *application form* may be provided as a result of an oral request.

The written request may be on a form supplied by the clerk or other election official, in a letter or on a postcard. The written request must include a statutory reason why the voter is eligible to receive an absentee ballot and the applicant's signature.

Distribution of blank absent voter ballot application forms by organizations and individuals:

Organizations and individuals are free to distribute blank absent voter ballot application forms without restriction. An organization may design and produce its own absent voter ballot application form if it wishes; such forms must include all of the statutorily required elements.

Distribution of blank absent voter ballot application forms by election officials: A clerk may mass mail blank absent voter ballot application forms to eligible absentee voters in advance of elections *at his or her discretion*; such mailings are *not* required by law.

A clerk who chooses to distribute blank absent voter ballot application forms through a mass mail program must distribute the forms for *all elections scheduled in the jurisdiction*; such programs cannot be selectively used.

Mail lists used by clerks to distribute blank absent voter ballot application forms must be equitably compiled. For example, if blank absent voter ballot application forms are automatically distributed to voters who are 60 years of age or more, the distribution list must be regularly updated to ensure that *every voter in the jurisdiction who is 60 years of age or more receives an application*.

Election officials are *not* permitted to employ absent voter ballot application distribution techniques which violate the equity principals election officials must observe to ensure the fairness and integrity of the absentee voting process. **For example, election officials are *not* permitted to use volunteers or paid staff to hand deliver blank absent voter ballot application forms to specially targeted voters or in specially targeted geographic areas.**

It merits special note that anytime an absent voter ballot form which has been mailed to a voter is returned as "undeliverable" with no forwarding address or a forwarding address in a different jurisdiction, a cancellation notice must be sent to the voter and the issuance of the cancellation notice must be posted on the voter's record in the QVF system.

Absentee ballot application submission timeframes: Absent voter ballot requests may be submitted anytime after the 75th day preceding the election. (Absent voter ballot requests submitted prior to the 75th day preceding the election may be retained on file for later processing.) The 75-day absent voter ballot request submission restriction does *not* apply to absent voter ballot requests submitted for federal elections by absent uniformed services voters.

A voter who applies for an absent voter ballot for a primary may, at the same time, request an absent voter ballot for the following general election if he or she is eligible to receive an absent voter ballot for both elections.

If the ballot must be issued by mail, the application for the ballot must reach the clerk no later than 2:00 p.m. on the Saturday prior to the election.

Absent voter ballots can be requested by voters *in person* anytime up to 4:00 p.m. on the day prior to the election. A voter who visits his or her clerk's office on the day prior to the election to obtain an absent voter ballot must vote the ballot in the clerk's office; the voter is not permitted to leave the clerk's office with the ballot.

The law also provides for the issuance of "emergency" absent voter ballots on the day of the election. The emergency absentee voting process is explained below.

Office hours on Saturday preceding election: The clerk or other authorized personnel appointed by the clerk must be available in the clerk's office on the Saturday preceding the election until 2:00 p.m. -- the deadline for requesting an absentee ballot which must be mailed.

Restrictions on possession of signed absent voter ballot applications: The persons who may be in lawful possession of a *signed* absent voter ballot request are limited to 1) the applicant 2) a member of the applicant's immediate family 3) a person residing in the applicant's household 4) a person whose job normally includes the handling of mail (but only during the course of his or her employment) 5) a registered elector asked to handle the application by the applicant and 6) an authorized election official.

A registered elector who returns an absentee ballot application at the request of the applicant must sign the following certificate which appears on the application form:

**CERTIFICATE OF AUTHORIZED REGISTERED ELECTOR
RETURNING ABSENT VOTER BALLOT APPLICATION**

I certify that my name is _____,
my address is _____,
and my date of birth is _____; that I am delivering the absent voter
ballot application of _____
at his or her request; that I did not solicit or request to return the application; that I have not made any
marking on the application; that I have not altered the application in anyway; that I have not
influenced the applicant; and that I am aware that a false statement in this certificate is a violation of
Michigan election law.

Date

Signature

Application verification requirement: Upon the receipt of a completed absent voter ballot application, the signature appearing on the application must be checked against the signature on the applicant's voter registration record to verify the applicant's identity.

Issuance of absentee ballots: A request for an absentee ballot must be processed immediately. It is recommended that the ballot be issued within 24 hours of the receipt of the application. Applications should be processed in the order they are received. This will avoid criticism that certain voters are being given preferential treatment. (While absentee ballots must be issued in the same order in which they are requested, an election official is not prohibited from issuing an absentee ballot to a voter applying in person despite the fact that there may be applications on file which have not yet been honored.)

An absentee voter can receive an absent voter ballot at his or her registration address, at any address outside of his or her jurisdiction of residence or at a hospital, nursing home or similar institution.

Campaign brochures or any other type of unauthorized materials may *not* be distributed with absentee ballots.

In every case, a requested absentee ballot must be transmitted to the applicant *by mail* if there is an adequate amount of time for the voter to receive the ballot by mail, vote the ballot and return the ballot prior to 8:00 p.m. on the date of the election. **To avoid any appearance of impropriety, absentee ballots should *not* be delivered by hand unless the hand delivery of the ballot is necessary to ensure the timely return of the ballot.**

Absentee voters who receive assistance: If the absentee voter receives assistance from another person when voting the ballot, the individual who provided the assistance must sign the certificate shown below. The certificate appears on the outside of the ballot return envelope.

It merits emphasis that the certificate must be signed by *any person* who assists an absentee voter vote his or her ballot including the voter's spouse, a household member who lives with the voter, an election official or an individual employed as an election assistant.

**TO BE COMPLETED ONLY IF VOTER IS
ASSISTED IN VOTING BY ANOTHER PERSON**

I assisted the above named absent voter who is disabled or otherwise unable to mark the ballot in accordance with his or her directions. The absent voter ballot was inserted in the return envelope without being exhibited to any other person.

Signature of Person Assisting Voter

Street Address or R.R.

City, Twp., or Village

Return of absentee ballots: Absentee ballots must be returned to the clerk by 8:00 p.m. on election day. On the day of the election, the clerk must make arrangements with the post office to pick up any absent voter ballots which are received by the post office after the post office has made its final mail delivery of the day to the clerk's office.

The persons who may return an absentee ballot are limited to 1) the voter 2) a member of the voter's immediate family who has been asked to return the ballot 3) a person residing in the voter's household who has been asked to return the ballot 4) a person whose job normally includes the handling of mail (but only during the course of his or her employment) and 5) an authorized election official.

Given the above restrictions, it merits emphasis that an absentee voter is *not* permitted to ask another voter who is not a member of the voter's immediate family or household to return his or her absentee ballot.

Ballot pick-up requirement: An election official is *required* to pick up a voter's absentee ballot if *all* of the following conditions are satisfied: 1) the election official issued the ballot to the voter 2) the voter is unable to return the ballot under any of the authorized delivery methods 3) the voter calls to request the pick up of his or her ballot before 5:00 p.m. on the Friday immediately preceding the election and 4) it is not necessary for the election official to travel outside of the jurisdiction to obtain the ballot. Under any other circumstances, an election official (or authorized assistant) may pick up a voter's absentee ballot *at the election official's discretion* if 1) the election official issued the ballot to the voter and 2) the voter is unable to return the ballot under any of the authorized delivery methods.

Election assistants authorized to pick up absentee ballots must carry appropriate credentials and show them when asked.

It merits note that an election official should not pick up a voter's absentee ballot unless the voter requests the pick up. **In no case should an election official or a person working as an election assistant contact an absentee voter in person or by phone to offer to return the voter's ballot.**

Ballot verification requirement: A voter who has obtained an absentee ballot must sign the following certificate which appears on the return envelope prior to returning the ballot to the clerk:

TO BE COMPLETED BY THE ABSENT VOTER

I assert that I am a qualified and registered elector of the city, township, or village named above. I am voting as an absent voter in conformity with state election law. Unless otherwise indicated below, I personally marked the ballot enclosed in this envelope without exhibiting it to any other person. I further assert that this absent voter ballot is being returned to the clerk or an assistant of the clerk by me personally; by public postal service, express mail service, parcel post service, or other common carrier; by a member of my immediate family; or by a person residing in my household.

Date

Signature of Absent Voter

Upon the receipt of a returned absentee ballot, the signature appearing on the above certificate must be checked against the signature on the applicant's voter registration record to verify the applicant's identity.

If the voter fails to sign the certificate, the ballot is void and cannot be removed from the envelope or counted.

Deceased absentee voter: If it comes to the attention of a local election official or a precinct board that a voter who returned an absentee ballot has died, the ballot must be rejected. In such an instance, the election official or precinct board writes "rejected as illegal" on the return envelope. Absentee ballots which are "rejected as illegal" cannot be removed from their return envelopes.

Emergency absentee ballot requests: An elector may make an "emergency" request for an absentee ballot if he or she cannot attend the polls because of 1) personal disablement or 2) a family death or illness which will require that the elector leave the community for the entire time the polls are open on election day.

"Emergency" requests for absentee ballots must be made after the deadline for making "regular" requests for absentee ballots (2:00 p.m. on the Saturday before the election) and before 4:00 p.m. on election day. The emergency must have occurred at a time which made it impossible for the voter to apply for an absentee ballot by the statutory deadline for "regular" applications.

If an "emergency" absentee ballot is requested, the person making the application may authorize the person delivering the application to pick up and deliver the ballot. The authorization to pick up and deliver the ballot must be in writing and must be signed by the applicant. An "emergency" absentee ballot may also be delivered by hand to the applicant by a person authorized to handle this task.

Penalties: Michigan election law provides the following penalties related to Michigan's absentee voting process:

- A person who forges a signature on an absentee ballot application is guilty of a felony.
- An unauthorized person who both distributes absentee ballot applications to absent voters and returns those absentee ballot applications to a clerk or assistant of the clerk is guilty of a misdemeanor.
- A person, other than an authorized election official, who gives, lends or promises any valuable consideration to or for a person to induce that person to both distribute absentee ballot applications and receive signed absent voter ballot applications from voters for delivery to the clerk is guilty of a misdemeanor.
- A person who is present while a voter is voting an absent voter ballot who suggests how the voter should vote or attempts to influence the voter on how he or she should vote is guilty of a felony.
- A person who assists an absentee voter mark his or her ballot who suggests how the voter should vote or attempts to influence the voter on how he or she should vote is guilty of a felony.
- A person who assists an absentee voter mark his or her ballot who permits any other person to suggest how the voter should vote or permits any other person to attempt to influence the voter on how he or she should vote is guilty of a felony.
- A person in illegal possession of an absentee ballot (voted or unvoted) is guilty of a felony.
- An unauthorized person who returns, solicits to return or agrees to return an absentee ballot is guilty of a felony.
- A person who assists an absentee voter who falsifies the statement which must be signed by such assistants is guilty of a felony.
- A person who plans or organizes a meeting at which absentee ballots are to be voted is guilty of a felony.

Election Resources Available on Department's Website

The following information can be accessed through the Department's website:

- September 13, 2005 city primary date calendar.
- September 13, 2005 village election date calendar.
- Voter information poster for September 13, 2005 election.
- November 8, 2005 city general election date calendar.

- November 8, 2005 election date calendar for local school district elections, community college district elections, district library elections and special elections.
- Voter information poster for November 8, 2005 election.
- Candidate filing requirements for August 8, 2006 statewide primary.
- Listing of important dates and deadlines associated with the August 8, 2006 statewide primary and November 7, 2006 statewide general election.
- Provisional balloting materials. (“Four Step Procedure Form,” “Notice to Voters Unable to Satisfy Identification Requirement and/or Residence Verification Requirement,” “Procedure for Handling ‘Envelope’ Ballots Returned to Clerk’s Office,” and “Provisional Ballot Report Form.”)
- Federal ID requirement notice.